

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK-----X
In re:

Chapter 7

Hyacinth J. Simms,

Case No. 16-45260-nhl

Debtor.
-----X**ORDER GRANTING IMMEDIATE AND
PROSPECTIVE RELIEF FROM THE AUTOMATIC STAY**

Upon the motion (the “Motion”) of Felix Street Holdings LLC (the “Secured Creditor”), a secured creditor of the above-captioned debtor, Hyacinth Simms (the “Debtor”), by and through its attorney, Horowitz PLLC, for the entry of an Order declaring the automatic stay to be inapplicable to the Secured Creditor pursuant to 11 U.S.C. §§ 105(a) and 362(j) by way of the fact that the Debtor previously stipulated to a certain *Stipulation and Order Terminating the Automatic Stay and Granting Related Reliefs* pursuant to 11 U.S.C. §§ 362(d)(1), (d)(2) and (d)(4) [ECF No. 66, Case No. 15-42960-nhl] (the “In Rem Order”) in connection with a prior filing of the Debtor (the “Prior Filing”), thereby permitting the Secured Creditor to pursue its state law rights and remedies concerning the real properties located at (i) 1478 Flatbush Avenue, Brooklyn, New York (Block 5249; Lot 68), and (ii) 36 St. Felix Street, Brooklyn New York (Block 2096; Lot 47) and (iii) 38 St. Felix Street, Brooklyn, New York (Block 2096; Lot 48) (collectively, the “Properties”), and waiving the fourteen (14) day stay imposed by Fed. R. Bankr. P. 4001(a)(3); and upon the application for a hearing on the Motion on shortened notice, and the Affidavit of Kenneth P. Horowitz, Esq. in support of the application for expedited relief; and the Court having entered an Order dated November 30, 2017, as amended on December 1, 2017, scheduling a hearing on the Motion on shortened notice (the “Order Shortening Notice”); and there being due and sufficient notice in accordance with the Order Shortening Notice; and no opposition to the Motion having

been filed; and a hearing on the Motion having been held before the Court on December 12, 2017 (the “Hearing”), at which appeared Kenneth P. Horowitz and Jason Leibowitz (counsel to the Secured Creditor), Christopher Oliver (of counsel to Bayview Loan Servicing, LLC), Hyacinth J. Simms (the Debtor), Joseph Y. Balisok (counsel to the Debtor), and Frank Wharton (state court counsel to the Debtor); and upon the record of the Hearing; and upon all of the pleadings and proceedings heretofore had herein, after due deliberation and sufficient cause appearing therefor, it is hereby

ORDERED, that the Motion is granted to the extent set forth herein; and it is further

ORDERED, that the automatic stay imposed in this case pursuant to 11 U.S.C. § 362(a), which was thereafter extended on motion of the Debtor, by way of that certain *Order Granting Motion to Extend the Automatic Stay* entered in the above-captioned case as to all creditors of the Debtor [ECF No. 19], was at all times, and remains, inapplicable to, and of no force or effect upon, the Secured Creditor, its successors and/or assigns, such that the Secured Creditor may exercise all rights available to it under applicable law with respect to the Properties, in accordance with and pursuant to the express terms of the In Rem Order.

Dated: January 3, 2018
Brooklyn, New York



Nancy Hershey Lord

Nancy Hershey Lord
United States Bankruptcy Judge